

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



**CORRECTED
FISCAL MEMORANDUM**

HB 8 – SB 579

February 24, 2013

SUMMARY OF ORIGINAL BILL: Creates a new Class C felony for aggravated vehicular assault and imposes a fine between \$5,000 and \$15,000.

FISCAL IMPACT OF ORIGINAL BILL:

Increase State Revenue – Not Significant
Increase State Expenditures – \$13,800/One-Time/General Fund
\$259,200/Incarceration*

SUMMARY OF AMENDMENT (003599): The amendment reorganizes subsection (b) of Section 1 of the bill. The amendment does not make any substantive changes to the bill.

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:

On February 23, 2013, a fiscal memorandum was issued that had an error in the *FISCAL IMPACT OF ORIGINAL BILL* that stated an increase in state expenditures for incarceration to be \$733,600 instead of \$259,200. This error has been corrected as well as the assumptions to explain the correct fiscal impact of the bill as amended.

Unchanged from the original fiscal note.

Corrected assumptions for the bill as amended:


- Currently, vehicular assault is a Class D felony. The bill creates a Class C felony for aggravated vehicular assault if someone commits vehicular assault and has a BAC of 0.2 or more and has a prior conviction for driving under the influence or for habitual motor vehicle offender law; or commits vehicular assault and has two or more prior convictions for driving under the influence, habitual motor vehicle offender law, vehicular assault, or vehicular homicide.
- An offender under the bill would not only be sentenced under the Class C felony range but also be prohibited from driving a vehicle in Tennessee (the length of this prohibition depends upon whether the most recent offense is the offenders first, second, third, fourth, or subsequent offense of aggravated vehicular assault).

- According to the Department of Correction (DOC), there has been an average of 35.7 admissions for vehicular assault over the last ten years. The DOC assumes 25 percent of these admissions, 9 admissions, will be convicted of aggravated vehicular assault under the bill.
- According to the U.S. Census Bureau, population growth in Tennessee has been 1.12 percent per year for the past 10 years, yielding a projected compound population growth of 11.78 percent over the next 10 years. Population growth will account for one (9×0.1178) additional admission for a total of 10 offenders ($9 + 1$).
- According to statistics from the DOC, the average time served for vehicular assault from 2001-2011 was 2.41 years, which is 0.61 years longer than the average Class D felony (2.41 years – 1.8 years, average time served for Class D felony). It is assumed that, on average, offenders committing aggravated vehicular assault will serve more time than the average Class C felony offender, who currently serves an average of 2.98 years. Assuming aggravated vehicular assault offenders will serve the same percentage increase, 34 percent ($0.61 / 1.80 = 0.34$), the average time served for aggravated vehicular assault will be 3.99 years (2.98 years, the average time served for a Class C felony, $\times 1.34 = 3.99$ years).
- According to the DOC, 33.75 percent of offenders will re-offend within one year of their release. A recidivism discount of 33.75 percent has been applied to this estimate to account for the impact of offenders who would re-offend under current law within the additional time added by this bill. It is assumed that the re-offender would have committed the subsequent offense at the same offense level as under current law (10 offenders $\times 0.3375 = 3$ offenders).
- According to the DOC, the average operating cost per offender per day for calendar year 2013 is \$64.17.
- The maximum cost in the tenth year, as required by Tenn. Code Ann. § 9-4-210, is based on 7 offenders [10 offenders – 3 offenders (recidivism discount)] serving an additional 1.58 years (3.99 years, average time served for aggravated vehicular assault – 2.41 years, average time served for vehicular assault). The operating cost for increasing the average sentence by 1.58 years (577.1 days) is \$37,033 ($577.1 \times \64.17). The total operating cost for 7 offenders is \$259,231 ($\$37,033 \times 7$ offenders).
- According to the Department of Safety and Homeland Security, computer programming changes would be necessary to the existing system to capture these convictions as aggravated vehicular assault rather than vehicular assault and to establish this new violation as a mandatory revocation of an offender's driving privilege. These programming changes, by the existing contract vendor, would result in a one-time cost of \$13,847.
- The additional number of cases generated by the proposed bill will not significantly impact the caseloads for the District Attorneys General Conference or the District Public Defenders Conference. Any additional cost can be accommodated within existing resources without an increased appropriation or reduced reversion.
- Any impact on caseloads for the state trial courts can be accommodated within existing judicial resources without an increased appropriation or reduced reversion.
- Based on the Fiscal Review Committee's 2008 study of incarceration costs and fines, collection of fines for felon offenses is negligible. There will not be a significant increase in revenue as a result of this bill.

**Tennessee Code Annotated § 9-4-210 requires an appropriation from recurring revenues for the estimated operation cost of any law enacted after July 1, 1986 that results in a net increase in periods of imprisonment in state facilities. The amount appropriated shall be based upon the highest cost of the next 10 years.*

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink, appearing to read "Lucian D. Geise". The signature is fluid and cursive, with the first name "Lucian" written in a larger, more prominent script than the last name "Geise".

Lucian D. Geise, Executive Director

/trm